

Sunset Public Hearing Questions for
Tennessee Corn Promotion Board
Created by Section 43-29-122, *Tennessee Code Annotated*
(Sunset Termination June 2023)

Enabling Statute, Purpose, and Rulemaking Authority

1. Provide a brief introduction to the board, including information about its purpose, statutory duties, staff, and administrative attachment.

Response:

The Tennessee Corn Promotion Board (TCPB) is funded through a one-cent per-bushel assessment on corn sold by farmers in the state of Tennessee. This fund is exclusively used to finance a program of research, education, market development, marketing, advertising, and other methods designed to promote the increased production, consumption, use and sale of corn and corn products produced in Tennessee.

In 2016, members of the Tennessee Corn Growers Association initiated an effort to implement a check-off program to support Tennessee corn growers. A check-off program allows individual farmers to benefit by collaborating with other farmers to pool their resources for the purpose of initiating programs to help them increase production, create, and utilize new economies of scale and to increase the sale of their products. Leaders of the Tennessee Corn Growers Association asked members of the Tennessee Legislature to consider having a statewide producer referendum to create a corn check-off program.

Because of their efforts, in April of 2018, the General Assembly of the State of Tennessee voted to amend Section 43-29-101, *Tennessee Code Annotated* -“Agriculture Commodities Promotion Act” to include corn as commodity produced on a commercial basis, along with beef, pork, and eggs. The amendment included a process for corn producers to vote on a referendum to “*assess themselves at the rate of one cent (\$0.01) per bushel of corn sold, and use the funds so collected by the department of agriculture, or the department’s contactor or designee and paid over to the Tennessee Corn Promotion Board to finance a program of research, education, market development, marketing, advertising and other methods designed to promote the increased production, consumption, use and sale of corn products.*”

November 28 and 29, 2018, Tennessee corn producers or landowners who share in the production costs or the proceeds of the sale of corn, cast their referendum vote by secret ballot at local University of Tennessee Extension offices. Of the producers who casted a ballot, 64% supported the measure. The one cent per bushel assessment began March 1, 2019. Producers who do not want to participate may request a refund of their assessed amount within 90 days of the sale of their corn.

Section 43-20-102, *Tennessee Code Annotated* specifies the Tennessee Corn Promotion Board membership to consist of nine members. The Board members are appointed by the

Commissioner of the Tennessee Department of Agriculture to three-year staggered terms. All members are to be producers of corn in the state of Tennessee. The Tennessee Farm Bureau Federation, the Tennessee Farmers Cooperative, and the Tennessee Corn Growers Association submit names of corn producers to the Commissioner, and the Commissioner appoints three (3) members from the nominees of each organization to serve on the Board for rotating three-year terms. No member of the Board shall be eligible to serve more than two (2) consecutive terms.

The Tennessee Corn Promotion Board does not have any paid staff. The day-to-day management of the Tennessee Corn Promotion Board is conducted by Carol Reed, Executive Director of the Tennessee Corn Promotion Council.

The Tennessee Department of Agriculture supports the Tennessee Corn Promotion Board through performance and administrative functions.

2. Section 43-29-211 (f), *Tennessee Code Annotated*, says that the board may establish rules for its own governance and for the administration of the board's affairs. Has the board established rules? Were rules promulgated in accordance with Title 4, Chapter 5 of the Uniform Administrative Procedures Act? If rules have been promulgated, please cite the reference.

Response: The Tennessee Corn Promotion Board has not promulgated rules. The Tennessee Corn Promotion Board adopted the following By-laws on January 19, 2022.

By-laws of the Tennessee Corn Promotion Board

I. Purpose. These by-laws provide for the orderly disposition of the business of the Tennessee Corn Promotion Board.

II. Authority. These by-laws are adopted pursuant to the authority vested in the Board of Directors by Tennessee Code Annotated § 43-29-101.

III. Members of the Board of Directors and Officers. The number, qualification, and appointment of members of the Board shall be in accordance with Tennessee Code Annotated § 43-29-122. Officers shall be Chair, Vice-Chair and Secretary. The Chair and Vice-Chair shall be elected by the members annually. Multiple consecutive officer terms are allowed. No member may hold a single elected office for more than two years during their term of membership.

IV. Officers.

1. Chair. The chair shall preside at all meetings of the board; and, except as otherwise authorized by the board, shall sign on behalf of the board, any contracts, reports, or other instruments adopted by the board.

2. Vice-Chair. The Vice-Chair shall have the duties of the Chair in the event the Chair is absent or unable to perform his/her duties.

3. Secretary. The Secretary shall keep or cause to be kept the board minutes, which shall be a full record of all board proceedings. The Secretary shall also perform other duties

with regard to records, including certification of transcripts and attestation of contracts or other documents as the board may direct. The Secretary shall make or cause to be made public notice of all board meetings within a reasonable time prior to the meeting. At the board's discretion the office of Secretary may be filled by a board member or staff person from the Tennessee Department of Agriculture.

V. Minutes and Records. Each action of the board recorded in the minutes and supporting documents shall be retained and subject to the public inspection in accordance with applicable law.

VI. Officer Vacancies. In the event that the office of Chair or Vice-chair become vacant, the board shall, at the next regular meeting, elect the successor to the office.

VII. Ethical Conduct. Board members shall follow the Conflict of Interest Policy adopted by the board.

VII. Meetings. Meetings of the board may be called by the Chair or upon the written request of three or more members. Written notification of the time, place and purpose of the meeting shall be made to each member.

IX. Quorum. The presence of a majority of members shall constitute a quorum for the transaction of business. A majority vote of the members present shall be required to decide any action.

X. Parliamentary Procedure. The most recent edition of *Robert's Rules of Order* shall govern the activities of the board in all matters to which they are applicable and are not inconsistent with these By-laws, applicable law or any special rules of order the board may adopt.

XI. Open Meetings Act. All meetings shall be open to the public pursuant to the Tennessee Open Public Meetings Act, Tennessee Code Annotated §8-44-101, et. seq.

XII. Public Comment. All requests to address the board on matters, other than during a meeting announced to include public comments, must be made in writing to the Chair or Secretary at least 48 hours before the board meeting. The request must identify the reason(s) for the request and the board shall grant or deny the request at its sole discretion.

XIII. Interpretation. The board is the final authority as to the meaning of these By-laws. As the need arises, the board may make exception to these by-laws for extraordinary cases, setting out the reasons for each exception.

XIV. Amendments. These by-laws may be amended at any board meeting by a majority vote following prior notice of the proposed amendment.

XV. Past By-laws. Adoption of these by-laws revokes any prior By-laws or procedures adopted by the board.

Organization

3. Section 43-29-211, *Tennessee Code Annotated*, establishes membership requirements for the board. Provide a list of current board members. For each member, please indicate who appointed the member, statutory member representation, the beginning and end of the member's term, and whether the member is serving a consecutive term.

Response: Current members of the Board of Directors:

Statutory Member Representation: Tennessee Corn Growers Association

Name	Term	Years of Term
Brundige, Mike	2nd	01/15/2021-01/14/2024
Forsbach, Karl	2nd	01/15/2019-01/14/2025
Harris, Larry Paul	2nd	01/15/2020-01/14/2023

Statutory Member Representation: Tennessee Farmers Coop

Name	Term	Years of Term
Spradlin, Mark	2nd	01/15/2021-01/14/2024
Gilbert, Ben	2nd	10/15/2020-01/14/2025
Sanders, Eddie	2nd	01/15/2020-01/14/2023

Statutory Member Representation: Farm Bureau

Name	Term	Years of Term
Davis, Andy	2nd	01/15/2019-01/14/2025
McConnell, Ty	2nd	01/15/2019-01/14/2023
McDonald, George	2nd	01/15/2021-01/14/2024

The Commissioner of the Tennessee Department of Agriculture or a designee from the Commissioner's staff shall serve as an advisor to the Board.

- Are there any vacancies on the board? If so, please indicate how long the positions have been vacant and explain steps that have been taken to fill any vacancies.

Response: There are currently no vacancies on the Board.

- How many times did the board meet in each of the last two fiscal years and to date in fiscal year 2022? How many members were present at each meeting? Please note meetings where the board did not have a quorum.

Response: Typically, the Board meets twice during a fiscal year: Once in August and once in January. A quorum has been present at each Board meeting.

The Tennessee Corn Promotion Board met two (2) times during FY 2019-2020:

August 20, 2019: 7 members present

January 8, 2020: 7 members present

The Tennessee Corn Promotion Board met two (2) times during FY 2020-2021:

August 12, 2020: 7 members present

January 7, 2021: 9 members present

The Tennessee Corn Promotion Board met two (2) time during FY 2021-2022:

August 4, 2021: 7 members present

January 18, 2022: 6 members present and January 19, 2022: 5 members present

6. Describe the relationship between the Tennessee Corn Promotion Board, the Tennessee Corn Growers Association, and the Tennessee Corn Promotion Council.

Response:

The shared mission of Tennessee Corn Promotion Board, the Tennessee Corn Growers Association and the Tennessee Corn Promotion Council is to identify and promote opportunities for corn farmers. Although these three organizations are separate and distinct entities, they share the common goal of expanding the use, marketing, and production of corn while helping others understand the value and importance of corn production to our state's economy and the value of green energy production.

All three, the Tennessee Corn Promotion Board, the Tennessee Corn Growers Association, and the Tennessee Corn Promotion Council work together on various efforts and are dedicated to advancing Tennessee's corn industry. Together, they are often branded or identified as "Tennessee Corn." While they often partner together to support the state's corn industry, they each have distinct organizational structure, missions, and scopes of work. All three organizations are funded and led by Tennessee corn producers.

By law, every Tennessee corn farmer invests in the corn check-off administered by the Tennessee Corn Promotion Board by paying the check-off on each bushel of corn they sell.

On the other hand, membership in the Tennessee Corn Growers Association is a choice. The Tennessee Corn Growers Association was founded in 1986. Activities of the Tennessee Corn Growers Association are supported by dues paid by its membership. The Tennessee Corn Growers Association helps create a policy and regulatory environment that enhances the future of Tennessee corn producers.

The Tennessee Corn Promotion Council is a non-profit corporation that was established in 2019 to manage the Tennessee corn check-off program and to provide the day-to-day management of Tennessee Corn. The Tennessee Corn Promotion Council is directed by the officers of the Tennessee Corn Growers Association and the officers of the Tennessee Corn Promotion Board.

7. What entities oversee the board's activities? Provide links to any oversight reports and recommendations.

Response: The Tennessee Department of Agriculture oversees the Board activities. There are no oversight reports or recommendations to share.

Financial Information

8. What were the board's revenues and expenditures for each of the last two fiscal years and to date in fiscal year 2022? Please include detailed information about all funding sources. Does the board carry a fund balance?

Response:

Fiscal Year	2019-2020	2020-2021	2021-2022 As of 4/30/2022
Income			
Assessments Collected	1,238,388.17	1,230,030.87	1,234,068.11
Assessments Refunded - Farmer	(11,451.88)	(5,158.29)	(1,736.48)
Assessments Refunded - First Purchaser Error	(15,290.24)		(10,956.47)
Interest Income	2,516.30	8,485.17	14,818.44
Total Income	1,214,162.35	1,233,357.75	1,236,193.60
Expenses			
Accounting	1,112.47	450.00	450.00
Office Expense	1,425.20	77.76	536.28
Banking and other Fees		20.00	395.00
Telephone	361.03		
Postage	33.00	95.00	215.20
Conference/ Travel/ Meetings	5,204.76	1,206.89	11,015.98
Research/ Grants/Awards	44,550.21	216,902.46	254,566.32
State Audits of Elevators	1,664.10	2,211.60	2,401.70
Contributions to TCPC	165,415.60	170,296.10	169,958.25
Total Expenses	219,766.37	391,259.81	439,538.73

A balance is maintained as a reserve due to the fluctuating nature of commodity markets, growing conditions and input prices. The fund balance on April 30, 2022, was \$2,772,513.52.

9. What per diem or travel reimbursements do board members receive? How much was paid to board members in each of the last two full fiscal years and to date in fiscal year 2022?

Response: As required by Section 43-29-115, *Tennessee Code Annotated*, Board members "shall not be compensated, but shall be reimbursed travel expenses in accordance with the comprehensive travel regulations promulgated by the commissioner of finance and administration and approved by the attorney general and reporter. "

Tennessee Corn Promotion Board members do not receive a per diem.

In FY 2019-2020, amount of board member reimbursement for travel expenses: \$777.97

In FY 2020-2021 amount of board member reimbursement for travel expenses: \$322.42
In FY 2021-2022 (as of April 30) amount of board member reimbursement for travel expenses: \$855.64

10. Does the board collect fees or assessments? If yes, provide relevant information about fees or assessments collected, including type and amount. Indicate whether these were established through rule or through state law.

Response: As established by law, the Tennessee Corn Promotion Board receives assessments at the rate of one cent (\$0.01) per bushel of corn sold in Tennessee as established by Section 43-29-101, *Tennessee Code Annotated* -“Agriculture Commodities Promotion Act.” The total assessments are listed in the response to question #8.

Sunshine Law, Public Meetings, and Conflict-of-Interest Policies

11. Are board meetings subject to sunshine law requirements (Section 8-44-101 et seq., *Tennessee Code Annotated*) for public notice of meetings, prompt and full recording of minutes, and public access to minutes? If so, what procedures does the board of directors have for informing the public of meetings and making minutes available to the public?

Response: Yes, the Tennessee Corn Promotion Board Meetings are subject to sunshine law requirements. The Tennessee Department of Agriculture sends out notices of public meetings and the notices are posted to the Tennessee Department of Agriculture website prior to the meeting date.

The Tennessee Corn Promotion Board minutes are available to the public upon request.

12. Does the board allow for public comment at meetings? Is prior notice required for public comment to be heard? If public comment is not allowed, how does the board obtain feedback from the public and stakeholders?

Response: Yes, the board does allow for public comment at meetings.

Response: All requests to address the board on matters, other than during a meeting announced to include public comments, must be made in writing to the Chair or Secretary at least 48 hours before the board meeting. The request must identify the reason(s) for the request and the board shall grant or deny the request at its sole discretion.

13. What policies and procedures are in place to address potential conflicts of interest of board members, employees, or other state employees who work with the board? If the board has a conflict-of-interest policy, please provide a copy.

Response: Once a year, each member of the Tennessee Corn Promotion Board certifies they have read the Ethics Policy Statement as provided by the Tennessee Department of Agriculture and the Executive Order No. 2, issued by Governor Bill Lee, on January 29, 2019.

Certification is made by signing the Tennessee Corn Promotion Board Ethics Policy Statement. (copy provided on page 9).



Tennessee Corn Promotion Board

ETHICS POLICY STATEMENT

Policy

Ethical oversight of public policy is important to the Tennessee Corn Promotion Board's work. It is the policy of this body-consistent with Executive Order No. 2, issued by Governor Bill Lee, *Jan. 29, 2019-to* exclude from participation in the business of this body any member whose duties or relationships give rise to a conflict of interest. Conflicts of interest include:

- Using public office for private gain
- Giving preferential treatment to any person
- Impeding government efficiency or economy
- Losing complete independence or impartiality
- Making a government decision outside of official channels
- Affecting adversely the confidence of the public in the integrity of the government

Members shall be diligent in their consideration of any action that may give rise to their individual conflicts of interest and shall disclose to the board in the minutes any item of business they believe raises an actual or perceived conflict. Members shall abstain from both voting and discussing the matter that gives rise to the conflict.

Additionally, members shall not

- use, disclose, or allow the use of that was not otherwise available to the general public
- engage in financial transactions in reliance upon information obtained through appointment to this body
- make private use of facilities, equipment, personnel, or supplies of the State or its agencies unless the use is incidental or available to the public

If a member or chair is in doubt about the interpretation or application of this policy, the member must seek counsel from legal staff of the Department of Agriculture.

Certification

I certify that I have read the Ethics Policy Statement above and Executive Order No. 2 issued by Governor Bill Lee and agree to abide by their provisions as a condition of my service to this body.

Name: _____

Signature: _____

Date: _____

Reports, Major Accomplishments, and Proposed Legislative Changes

14. What reports does the board prepare concerning its activities, operations, and accomplishments? Who receives copies of these reports? Please provide a link to any such reports issued in the last two years.

Response: Each month a Report of Assessments Collected is prepared by the Executive Director of the Tennessee Corn Promotion Council. The Report contains the name of the first purchaser; the date assessment was received, and the amount of the assessment. The Report is sent to the Tennessee Department of Agriculture, Consumer, and Industry Services – Porter Bldg., Grain Program / Attn: Evan Boyd. The Department Grain Program Auditors verify the information contained in the monthly report by inspecting the first purchaser records. The Tennessee Corn Promotion Board reimburses the Tennessee Department of Agriculture for expenses that occur while traveling to the first purchaser's location and for the time in preparing for the Audit Report.

Soon after the close of each fiscal year, an Annual Report of activities, operations, and accomplishments is prepared. Copies of the Annual Report are shared on various social media outlets and by direct mail. Link to the 2020-2021 report, <https://www.tncorn.org/blog-page/tennessee-corn-releases-2020-2021-annual-report>. Link to the 2019-2020, <https://www.tncorn.org/blog-page/tennessee-corn-publishes-2019-2020-annual-report>.

15. What were the board's accomplishments during the last two fiscal years and to date in fiscal year 2022?

Response: Tennessee corn farmers have demonstrated their support of the Tennessee Corn Promotion Board efforts to fulfill its mission to promote the increased production, consumption, use and sale of corn products. One very positive indication of their support is the fact very few producers request refunds of their one cent per bushel assessment. This support is validated by the small number of requested assessment refunds. During the time period covered in this report, farmer refunds are one-half of one percent.

It is felt this farmer support is in part due to efforts by the Tennessee Corn Promotion Board's to communicate and share information about its actions and activities on their behalf. In addition to the Annual Reports mentioned in a previous question, other outreach opportunities are utilized. A monthly e-newsletter is shared by email and a printed newsletter is mailed once a quarter. We also have excellent participation in trade shows at farmer-oriented meetings.

Annually, a Survey is sent to Tennessee corn farmers to give the corn farmers an opportunity to share their ideas, concerns, and thoughts. The information provided from their responses are a primary factor in guiding the Tennessee Corn Promotion Board decisions as how to best invest corn checkoff resources. This has proven to be an excellent

way for The Tennessee Corn Promotion Board to be responsive to the individual corn producer.

When asked to select their top preferred actions to enhance their profitability; the farmers have responded that ethanol promotion, export promotion, consumer education and corn production research are the areas that should receive the highest investments.

Using the feedback from the Survey responses, the Tennessee Corn Promotion Board has developed projects to address the concerns.

For corn production research. In the late fall of 2019, the Tennessee Corn Promotion Board issued its first Request for Proposals for university research projects. The purpose of the Request of Proposal to solicit university research proposals that will develop research-based technologies and practices to help farmers increase production efficiency and/or profitability while safeguarding and improving the natural resources needed for agriculture. Proposals are selected on the following criteria:

- to find new uses for corn and corn products
- to identify value-added uses of the chemicals/components of corn
- to corn focused projects that result in commercialization of corn-based products or technology
- expanding/developing commercially significant markets for corn utilization

The Tennessee Corn Promotion Board solicited Request for Proposals from all Tennessee universities. The Tennessee Corn Promotion Board has funded or made commitments to fund \$833,164 in research projects from the University of Tennessee Institute of Agriculture and the University of Tennessee Martin College of Agriculture, Geosciences, or Natural Resources Management.

In addition to the university research projects, Tennessee Corn Promotion Board has made grants to various agri-related nonprofit organizations to support their efforts to provide adult and class-room agricultural education. Those receiving funds include the new Discovery Park of America - Agriculture: "Innovating for Our Survival Exhibit", the Tennessee Ag-In-the Classroom, the Agricenter International Education Programs, and the Farm Animal Care Coalition of Tennessee. Since January of 2020, the Tennessee Corn Promotion Board has made \$120,000 in grants to these organizations.

For national research efforts. Corn farmers across the United States face many of the same challenges and issues as Tennessee corn farmers. The National Corn Growers Association was created to facilitate communications and connections with corn farmers from twenty other states. By working together, solutions can be found to similar problems facing corn farmers. The National Corn Growers Association research programs include: the development of next generation fertilizer technologies; the control of herbicide resistant weeds and plant nutrient deficiencies. The Tennessee Corn Promotion Board supports the National Corn Growers Association research efforts.

For ethanol promotion and consumer education. The Tennessee Corn Promotion Board is making preparations to implement a state-wide educational initiative: “*Corn Energy is Green Energy for Today.*” The objective for the initiative is to have the consumer gain a better understanding that corn-based ethanol is today’s most significant green energy and that it helps meet stated goals for the climate concerns, energy independence and lower energy prices.

The goals of the educational project are to:

- To tell our story that locally grown Tennessee corn is a recognizable and excellent green energy source and one solution to reducing emissions and pollution
- Create positive public opinion for acceptance of corn as a green energy source
- Gain support of influencers in the state
- Create advocates for corn energy
- Increase awareness and acceptance of gasoline products containing ethanol and its many benefits

The initiative plans to utilize five months of live media starting July 1 and ending November 30, 2022; by using a multi-channel marketing strategy. A multi-channel marketing strategy allows for the audience to be reached in a number of different places: such as email, social media, and websites with a consistent message.

For youth education. The Tennessee Corn Promotion Board is preparing an educational program designed expressly for 4th and 5th graders- “From Ear to Everything.” The next generation of consumers and leaders are important, and they need to know how Tennessee corn is a part of their daily life.

Key messages in the program include:

- Tennessee corn farmers are part of our state and communities
- Tennessee corn farmers do their best every day to care the environment while raising a healthy crop
- Tennessee corn plays a role in every part of daily life- from the car you ride in to school to the burger you have for dinner

A six lesson curriculum will be made available to all University of Tennessee Extension and Tennessee State University 4H extension agents for use in the 4H classroom.

What challenges, if any, has the board faced in the last two full fiscal years and to date in fiscal year 2022?

Response: The successes and challenges of the Tennessee Corn Promotion Board are directly related to the successes and challenges faced by Tennessee corn producers. During the last two years, producers have faced a number of major challenges: the COVID 19

pandemic; adverse weather events; supply chain disruptions; shortage of farm labor; the unprecedented increase in crop input costs and the significant fluctuations in commodity prices. Despite these challenges, Tennessee corn producers are resourceful and working diligently to produce an adequate crop to meet a dramatically increasing demand.

16. Please describe any items related to the board that require legislative attention and any proposed legislative changes.

Response: At this time, there are no proposed legislative changes.

17. Should the board be continued? To what extent and in what ways would its absence affect the public health, safety, or welfare of the citizens of Tennessee?

Response: Yes, the Tennessee Corn Promotion Board should be continued.

The one cent per bushel assessment is not a cost paid by, nor passed onto the general public. The Tennessee corn producers voted to invest their own money. The citizens of Tennessee are the beneficiaries of any efficiencies created by the investments, the work, and the mission of the Tennessee Corn Promotion Board.

The strides accomplished so far, through the efforts of the Tennessee Corn Promotion Board have been excellent; but the major accomplishments to be achieved by this organization lie in its future.

18. Please identify the appropriate agency representative or representatives possessing substantial knowledge and understanding of the responses provided to the sunset review questions.

Response: Carol Reed, Executive Director

19. Please identify the appropriate agency representative or representatives who will respond to the questions at the scheduled sunset hearing.

Response: George McDonald, Tennessee Corn Promotion, Board Chairman

20. Please provide the office address, telephone number, and email address of the agency representative or representatives who will respond to the questions at the scheduled sunset hearing.

Response: George McDonald, 11 Catesa Farms, Riddleton, TN 38257, P: 615-418-7120
Carol Reed, P.O. Box 108, Dresden, TN 38225, P: 731-819-7111